

1 Erik R. Puknys
(CAB #190926; erik.puknys@finnegan.com)
2 FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
3 3300 Hillview Ave
Palo Alto, CA 94304
4 Telephone: (650) 849-6600
Facsimile: (650) 849-6666

5 Attorneys for Defendant
6 SYNGENTA CROP PROTECTION, INC.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 (SAN JOSE DIVISION)

11 VALENT U.S.A. CORPORATION AND
SUMITOMO CHEMICAL CO., LTD.,

12 Plaintiffs,

13 v.

14 SYNGENTA CROP PROTECTION, INC.,

15 Defendant.
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CASE NO. 08-cv-0720 RMW

**SECOND NOTICE OF
SYNGENTA'S MOTION TO DISMISS
PLAINTIFFS' COMPLAINT**

Hearing Date: April 25, 2008
Hearing Time: 9:00 am
Courtroom: 4th Floor, #6

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE NOTICE that, on April 25, 2008, at 9:00 AM or as soon thereafter as counsel may be heard. Defendant Syngenta Crop Protection, Inc. ("Syngenta") will and hereby does move that the Court, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), dismiss the complaint filed by plaintiffs Valent U.S.A. Corporation ("Valent") and Sumitomo Chemical Co. Ltd. ("Sumitomo") (collectively "Plaintiffs") for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted. In the alternative, Syngenta respectfully requests that this Court dismiss this action under its discretionary authority to decline adjudication of declaratory judgment ("DJ") actions.

This motion is based on this Notice of Motion and the Memorandum of Points and Authorities and the Supporting Declaration of Erik R. Puknys filed March 14, 2008.

DATED: March 17, 2008

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

By _____ / s /
Erik R. Puknys
Attorneys for Defendant Syngenta Crop Protection,
Inc.

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13 VALENT U.S.A. CORPORATION AND
14 SUMITOMO CHEMICAL CO., LTD.,

15 Plaintiff,

16 v.

17 SYNGENTA CROP PROTECTION, INC.,

18 Defendants.
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CASE NO. 08-cv-0720 RMW

**[PROPOSED] ORDER GRANTING
SYNGENTA'S MOTION TO DISMISS
PLAINTIFFS' COMPLAINT**

20 The Court having considered Defendant's Motion to Dismiss Plaintiffs' Complaint,
21 IT IS HEREBY ORDERED that the Motion is GRANTED.
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24 Dated: _____, 2008

25 Ronald M. Whyte
United States District Court Judge
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